

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS  
**FEB 26 1999**  
JAMES W. McCORMACK, CLERK  
By: *[Signature]* DEF. CLERK

ROBERT POWELL.

PLAINTIFF

VS.

NO. LR-C-97-507

TWOMECE, L.L.C.,  
and LANDEX CORPORATION

DEFENDANTS

**CONSENT DECREE**

Whereas, Plaintiff Robert Powell instituted a citizen's enforcement action by filing the complaint herein on June 16, 1997 and amended complaint on April 14, 1998, alleging that the Defendants TWOMECE, L.L.C. and Landex Corporation (collectively referred to as the "Defendants") had violated the Clean Water Act, 33 U.S.C. § 1251 et seq., (the "Act") and the terms and conditions of National Pollutant Discharge Elimination System ("NPDES") Permit No. ARR10A000, and committed state common law violations of trespass, nuisance and water rights violations;

Whereas, Defendant TWOMECE, L.L.C. owns Persimmon Ridge Golf Club in eastern Faulkner County and Landex Corporation is a licensed general contractor in the state of Arkansas who performed clearing, excavation and grading in connection with the construction of Persimmon Ridge Golf Club.

Whereas, the parties having consented to the entry of this consent judgment;

NOW THEREFORE, before the taking of any testimony, upon the pleadings, and without adjudication of any issue of fact or law herein, or admission by Defendants of any fact, violation or liability, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

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### I. JURISDICTION

The Court has jurisdiction over the parties and subject matter of this action under 28 U.S.C. §§ 1331, 1345, 1355 and Section 309 of the Act, 33 U.S.C. § 1319. The court has pendent jurisdiction over the state claims under 28 U.S.C. § 1367. The complaint states a claim against the Defendants upon which the Court can grant relief.

### II. APPLICABILITY

This consent judgment shall apply to and be binding upon the parties to this action, and the successors and assigns of each, as well as any agencies, officers, directors, agents, and servant thereof. This consent judgment is entered in settlement of this action.

### III. OBJECTIVES OF THIS CONSENT JUDGMENT

The objectives of this consent judgment include compliance with the Act and regulations promulgated thereunder as well as temporary and permanent stabilization of certain portions of the Persimmon Ridge Golf Club.

### IV. REMEDIAL MEASURES AND COMPLIANCE SCHEDULE

Consistent with the objectives of this consent judgment, TWOMECE, L.L.C. shall prepare plans and implement best management practices to stabilize the slopes of the earthen dam and the slope to the south of the impounded lake as well as any other areas of the site that have not been stabilized.

The measures implemented shall include establishing temporary winter grass cover and installing stormwater management and erosion control measures until final stabilization with a permanent grass cover is sufficiently established.

TWOMECE, L.L.C. shall commence implementing best management practices as outlined above within seven days of the date of entry of the decree and shall have completed the permanent grass cover by July 31, 1999.

V. COMPLIANCE SCHEDULE REPORTING REQUIREMENTS

After entry of this consent judgment and until it is terminated in accordance with , TWOMECE shall submit to Plaintiff's counsel a monthly report detailing the current status and/or progress of the stabilization described in § IV of this consent decree.

VI. RIGHT OF ENTRY

Plaintiff's counsel have authority to enter the Persimmon Ridge Golf Club for the purpose of:

- (1) Monitoring the progress of activity required by this consent decree; and
- (2) Verifying any data or information submitted to Plaintiff's attorneys in accordance with the terms of this consent decree.

VII. REPORT SUBMITTALS

Reports or notices required pursuant to this consent decree shall be submitted to the following addresses:

Steve Haralson  
Haralson Law Firm  
111 Center, Suite 1200  
Little Rock, AR 72201

Paul J. James  
James, Yeatman & Carter, PLC  
P.O. Box 907  
Little Rock, AR 72203

VIII. CAUSE OF HEARING

Any party may apply to this Court for such further orders and directions as may be appropriate.

IX. RETENTION OF JURISDICTION

The Court shall retain jurisdiction of this matter until this consent decree is terminated in accordance with Section XIX, below.

THIS DOCUMENT ENTERED ON DOCKET SHEET FOR  
COMPLIANCE WITH RULE 58 AND/OR 79(a) FROM  
ON 2/26/99 BY CMt

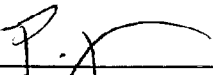
James M. James  
U.S. DISTRICT JUDGE

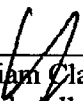
Feb 26, 1999  
DATE

*Robert Powell v. TWOMECE, L.L.C. and Landex Corporation - Consent Decree*  
U.S. District No. LR-C-97-507

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Approved as to Content:

  
\_\_\_\_\_  
Paul J. James  
James, Yeatman & Carter, PLC  
500 Broadway, Suite 400  
Little Rock, Arkansas 72201  
and  
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111 Center, Suite 1200  
Little Rock, AR 72201  
(501) 376-7984  
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\_\_\_\_\_  
William Clay Brazil, Esq.  
Brazil, Adlong, Murphy & Osment, PLC  
913 Oak Street  
Conway, AR 72032  
(501) 327-4457  
Attorney for Defendant TWOMECE, L.L.C.

bt

UNITED STATES DISTRICT COURT  
Eastern District of Arkansas  
U.S. Post Office & Court House  
600 West Capitol, Suite 402  
Little Rock, Arkansas 72201-3325

February 26, 1999

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 4:97-cv-00507.

True and correct copies of the attached were mailed by the clerk to the following:

William Clay Brazil, Esq.  
Brazil, Adlong & Osment, PLC  
913 Oak Street  
Conway, AR 72032-4397

Randy P. Murphy, Esq.  
Anderson, Murphy & Hopkins, L.L.P.  
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400 West Capitol Avenue  
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Little Rock, AR 72201-3446

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Little Rock, AR 72203-0907

cc: press ~~& post~~

James W. McCormack, Clerk

Date: 3/1/99

BY: *D. Lopez*